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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

S.F., an individual,

Plaintiff,

vs.

UNITED STATES OF AMERICA
(FEDERAL BUREAU OF PRISONS); THE
ESTATE OF NICHOLAS THEODORE
RAMOS, an individual; and DOES 1 through
10, inclusive,

Defendants.

) Case No.

) **COMPLAINT FOR DAMAGES**

) **DEMAND FOR JURY TRIAL**

INTRODUCTION

1. In March 2022, NICHOLAS THEODORE RAMOS (“CO RAMOS”) was put on administrative leave due to sexual harassment and abuse allegations while employed at Federal Correctional Institution Dublin (“FCI DUBLIN”), located at 5701 8th St., Dublin, County of Alameda, State of California. FCI DUBLIN is an all-female low security federal correctional institution with an adjacent minimum-security satellite camp located in Dublin, California. On

1 August 21, 2022, CO RAMOS committed suicide ending his criminal investigation. THE
2 ESTATE OF NICHOLAS THEODORE RAMOS stands in his shoes in this present litigation as
3 a defendant.

4 2. During the same time periods of abuse, Plaintiff S.F. ("Plaintiff") was also a
5 female inmate at FCI DUBLIN. She was also sexually assaulted by CO RAMOS, DOE 1, and
6 DOE 2 on numerous occasions while they were acting within the course and scope of their
7 employment at FCI DUBLIN as a warden and correctional officers.

8 3. CO RAMOS abused Plaintiff when their paths crossed around FCI DUBLIN. CO
9 RAMOS would approach Plaintiff and touch, fondle, and grope her buttocks. As CO RAMOS's
10 penis became erect, CO RAMOS grabbed Plaintiff and pulled her body against his body and
11 grinded his erect penis on her buttocks. This abuse happened on numerous occasions.

12 4. CO RAMOS managed to go to the showers while Plaintiff was bathing and stood
13 staring at her.

14 5. DOE 1 also watched Plaintiff in the showers. Plaintiff was nude and felt his
15 presence whenever she showered and was left in constant fear of DOE 1.

16 6. DOE 1 would stand in Plaintiff's cell at night watching her. Plaintiff woke up in
17 the middle of the night to DOE 1 staring at her. Plaintiff asked DOE 1 what was happening and
18 he would simply walk out of the cell.

19 7. DOE 2 abused Plaintiff in the kitchen office. DOE 2 escorted Plaintiff into the
20 office and locked the door behind her. DOE 2 proceeded to touch, fondle, and grope Plaintiff's
21 breasts, buttocks, and vagina. Plaintiff knew if she did not comply that DOE 2 would send her to
22 solitary confinement. This abuse took place numerous times.

23 8. On other occasions, DOE 2 grabbed Plaintiff from behind while she was in the
24 cook line. DOE 2 then rubbed his erect penis on Plaintiff's buttocks. This abuse took place
25 numerous times.

26 9. Based on information and belief, before and during the sexual assaults of Plaintiff,
27 it was well known among the female inmates, wardens, associate wardens, correctional officers
28

1 and other staff that CO RAMOS, DOE 1, and DOE 2 had a reputation for sexually abusing
2 inmates. Yet nothing was done to stop them.

3 **“A FISH ROTS FROM THE HEAD DOWN”**

4 **CULTURAL SEXUAL ABUSE AT FCI DUBLIN**

5 **Warden/Associate Warden Ray J. Garcia**

6 10. On November 2, 2021, WARDEN GARCIA was criminally indicted for sexually
7 assaulting a female inmate at FCI DUBLIN on numerous occasions starting in 2019. WARDEN
8 GARCIA groomed the female inmate by giving her candy, sharing personal information about
9 himself, and suggesting he could transfer her to a facility closer to her family. WARDEN
10 GARCIA also told the female inmate that he wanted to perform oral sex on her.

11 11. WARDEN GARCIA was charged with two criminal counts of digital vaginal
12 penetration of a female inmate.

13 12. From approximately November of 2020 to July of 2021 WARDEN GARCIA was
14 the warden at FCI DUBLIN.

15 13. From approximately December 2018 to November 2020, WARDEN GARCIA
16 was the associate warden at FCI DUBLIN.

17 14. As the warden, WARDEN GARCIA was responsible for the safekeeping, care,
18 protection, discipline, programming, and release of inmates incarcerated at FCI DUBLIN.
19 WARDEN GARCIA was also responsible for hiring, training, and supervising and managing
20 staff, and determining operating procedures and policies. In his role as associate warden and
21 warden, WARDEN GARCIA had disciplinary authority over all inmates incarcerated at FCI
22 DUBLIN.

23 15. Thus, WARDEN GARCIA had almost limitless power at FCI DUBLIN.
24 GARCIA, as warden, was in charge of the entire FCI DUBLIN facility. WARDEN GARCIA
25 was required to conduct his work and supervise inmates in accordance with BOP policies and
26 procedures. He was advised, as part of his training, that he could not maintain inappropriate
27 relationships with inmates, which included becoming emotionally, physically, sexually, or
28 financially involved with inmates or former inmates. WARDEN GARCIA was further advised

1 that he could not show favoritism or give preferential treatment to one inmate or group of
2 inmates over another.

3 16. In 2019 and 2020, WARDEN GARCIA led training for staff at FCI DUBLIN,
4 including corrections officers, on the Prison Rape Elimination Act (“PREA”). However, instead
5 of directing corrections officers and other staff to comply with the mandates of PREA,
6 WARDEN GARCIA demonstrated by his own behaviors that it was acceptable at FCI DUBLIN
7 to sexually assault female inmates as a matter of course. WARDEN GARCIA institutionally led
8 by example in a course of conduct that demonstrated that sexual assaults of female inmates were
9 acceptable and would not be punished.

10 17. An investigation revealed that WARDEN GARCIA knowingly engaged in a
11 sexual act with at least one inmate at FCI DUBLIN that was under his custodial, supervisory, or
12 disciplinary authority. The same investigation revealed that WARDEN GARCIA asked at least
13 two inmates to strip naked for him when he did his rounds in the prison, and that he took pictures
14 of at least one of those inmates while she was naked in a cell at FCI DUBLIN.

15 18. On one particular occasion, WARDEN GARCIA directed an inmate to disrobe in
16 her cell and get on her hands and knees. GARCIA then proceeded to photograph the woman.

17 19. On another occasion, WARDEN GARCIA used a changing stall designed for
18 PREA compliant searches to sexually assault the female inmate.

19 20. WARDEN GARCIA also directed at least two inmates to be fully nude in their
20 cells for his personal sexual gratification while he made his rounds around FCI DUBLIN.

21 21. Additionally, a large volume of sexually graphic photographs, including images
22 of male and female genitalia and nude photographs of WARDEN GARCIA were discovered on
23 WARDEN GARCIA’s work cellphone issued by the Board of Prisons.

24 22. WARDEN GARCIA also told a female inmate that he liked convicts because they
25 do not go to the cops, that he could not be fired and that she could not “ruin him” for purposes of
26 preventing the individual from disclosing WARDEN GARCIA’s sexual abuse and assaults.

27 ///

28 ///

SEXUAL ASSAULTS BY OTHER FCI DUBLIN

CORRECTIONAL OFFICERS

23. On April 13, 2023 **DARRELL WAYNE SMITH** aka “Dirty Dick Smith” (“SMITH”) was criminally indicted for sexually assaulting three female inmates at FCI DUBLIN. The sexual assaults occurred on numerous occasions between approximately May of 2019 and at least May of 2021 at FCI DUBLIN while SMITH was employed at FCI DUBLIN as a correctional officer (“CO”). SMITH is charged with multiple counts of violation of 18 U.S.C. section 2244(a)(4) for knowingly engaging in sexual contact with persons in official detention under his custodial, supervisory and disciplinary authority while acting within the course and scope of his employment at FCI DUBLIN.

24. On June 25, 2021 **ROSS KLINGER** (“KLINGER”), a correctional officer at FCI DUBLIN, was criminally charged for sexually assaulting two female inmates while acting in the course and scope of his employment in the United States District Court, Northern District of California. KLINGER pled guilty to federal criminal charges for Sexual Abuse of a Ward (18 U.S.C. section 2243(b)).

25. In early June of 2023 **JOHN RUSSELL BELLHOUSE**, a correctional officer at FCI DUBLIN, was found guilty of five counts of sexual abusing two female inmates between 2019 and 2020 at FCI DUBLIN in the course and scope of his employment in the United States District Court, Northern District of California.

26. In August of 2022 even the former FCI DUBLIN prison chaplain, **JAMES THEODORE HIGHHOUSE**, was sentenced for coercing female inmates to have sex with him as they sought out his spiritual guidance while he was acting as a correctional officer in the course and scope of his employment at FCI DUBLIN.

27. On March 10, 2022, a federal grand jury indicted **ENRIQUE CHAVEZ** (“CO CHAVEZ”) charging him with two counts of abusive sexual contact of a female inmate in violation of 18 U.S.C. section 2244(a)(4) for knowingly engaging in sexual contact with persons in official detention under his custodial, supervisory and disciplinary authority while acting within the course and scope of his employment at FCI DUBLIN. CO CHAVEZ was the fifth

1 employee from FCI DUBLIN to be charged with sexual abuse charges. On October 27, 2022,
2 CO CHAVEZ pled guilty to having sexual contact with a female prison inmate. CO CHAVEZ
3 admitted that in October 2022 he met the victim in the food service pantry where he locked the
4 door and turned off the light and proceeded to touch the victim's genitals and breasts. On
5 February 9, 2023, CO CHAVEZ was sentenced to 20 months in prison.

6 28. In July 2023, former correctional officer **NAKIE NUNLEY** admitted to
7 committing ten felony charges of sexual abuse of female inmates at FCI DUBLIN and lying to
8 federal investigators. In the plea agreement, NUNLEY admitted to improper touching and
9 engaging in oral sex and having sexual intercourse.

10 29. In July 2023, former correctional officer **ANDREW JONES** entered into a plea
11 agreement for sexual abuse and assault committed while acting in the course and scope of his
12 employment. CO JONES supervised female inmates working in the kitchen. In the plea
13 agreement, CO JONES admitted to engaging in oral and vaginal sex with three female inmates,
14 including Plaintiff. CO JONES also admitted that he lied to federal investigators about sexually
15 abusing his victims.

16 30. Former correctional officer **SERGIO SAUCEDO** was placed on administrative
17 leave at FCI DUBLIN in March of 2022 after he was investigated for sexually assaulting female
18 inmates at FCI DUBLIN.

19 31. Several employees of the BOP that worked at FCI DUBLIN reported sexual
20 assaults by correctional officers. However, instead of investigating the repeated reports of sexual
21 assaults, employees that reported the sexual assaults were transferred to less desirable geographic
22 locations or forced to resign or retire.

23 **VIOLATION OF PRISON RAPE ELIMINATION ACT**

24 **("PREA")**

25 32. Congress enacted the Prison Rape Elimination Act in 2003, 34 U.S.C. section
26 30301, et seq. ("PREA") to establish national standards for preventing sexual abuse of federal
27 inmates and responding to sexual abuse of federal inmates. The United States Department of
28 Justice finalized these mandated standards on or about May 17, 2012.

1 33. PREA regulations are mandatory for federal employees of the BOP. PREA
2 requires the BOP to have a strict “written policy mandating zero tolerance toward all forms of
3 sexual abuse and sexual harassment outlining [BOP’s] approach to preventing, detecting, and
4 responding to such conduct,” which the BOP has adopted. PREA, adopted by the UNITED
5 STATES DEPARTMENT OF JUSTICE (“DOJ”) and binding on BOP, require periodic PREA
6 audits of all federal correctional facilities to ensure compliance with the standards put forth in the
7 regulations.

8 34. PREA requires that “all staff . . . report immediately” any “knowledge, suspicion,
9 or information regarding an incident of sexual abuse or sexual harassment that occurred in the
10 facility,” and any “retaliation against inmates or staff who reported such an incident,” as well as
11 any “staff neglect or violation of responsibilities that may have contributed to an incident or
12 retaliation.” 28 C.F.R. section 115.61(a).

13 35. It is mandated that when a prison inmate is subject to a substantial risk of
14 imminent sexual abuse, it shall take immediate action to protect the inmate. 28 C.F.R. section
15 115.62.

16 36. Pursuant to PREA requirements, sexual abuse victims shall be offered medical
17 and mental health care by the BOP. 28 C.F.R. section 115.83.

18 37. Pursuant to PREA, all employees of the BOP that have contact with inmates must
19 be trained on the following items: 1) Zero-tolerance policy for sexual abuse and sexual
20 harassment; 2) Fulfilling their responsibilities regarding detection, reporting and responding to
21 sexual abuse; 3) An inmates right to be free from sexual abuse and sexual harassment; 4) The
22 right of inmates and employees to be from retaliation for reporting sexual abuse and harassment;
23 5) The dynamics of sexual abuse and sexual harassment in confinement; 6) The common
24 reactions of sexual abuse and sexual assault victims; 7) How to detect and respond to signs of
25 threatened and actual sexual abuse; 8) How to avoid inappropriate relationships with inmates,
26 and other similar requirements.

1 38. Pursuant to PREA, 28 C.F.R. Part 115.76, the presumptive disciplinary sanction
2 for staff that sexually abuse inmates, such as wardens and corrections officers, is termination of
3 employment.

4 39. Personnel at FCI DUBLIN failed to follow PREA's requirements and turned a
5 "blind eye" towards the rampant sexual abuse of female inmates at FCI DUBLIN which enabled
6 sexual assaults at FCI DUBLIN to routinely occur. PREA requirements at FCI DUBLIN were
7 violated from the top down as WARDEN GARCIA led by example that prison rape was
8 acceptable.

9 40. CO RAMOS, DOE 1, and DOE 2 repeatedly sexually assaulted Plaintiff and other
10 female inmates at FCI DUBLIN in violation of PREA. Other employees at FCI DUBLIN knew
11 about CO RAMOS, DOE 1, and DOE 2' repeated sexual assaults of female inmates at FCI
12 DUBLIN and failed to report their sexual assaults or take any steps to prevent it.

13 41. At FCI DUBLIN, at all relevant times, there was an institutional defiance of
14 PREA regulations adopted by the BOP based on the known culture that existed at the institution.

15 42. CO RAMOS, DOE 1, and DOE 2 violated PREA, plaintiff's Constitutional rights
16 and California law on gender violence and sexual assault with regard to their sexual assaults of
17 female inmates at FCI DUBLIN, including plaintiff.

18 **DECEMBER 13, 2022 UNITED STATES SENATE**
19 **STAFF REPORT REGARDING SEXUAL ABUSE**
20 **OF FEMALE INMATES IN FEDERAL PRISONS**

21 43. On or about December 13, 2022 the United States Senate Permanent
22 Subcommittee on Investigations, Committee on Homeland Security and Government Affairs, led
23 by Senator Jon Ossoff and Ron Johnson, released a report entitled *Sexual Abuse of Female*
24 *Inmates in Federal Prisons* ("Senate Report").

25 44. The Senate Report is extensive and is over thirty pages in length. The report
26 states, in relevant part:

- 27 a. Women entering prison are significantly more likely than men to be sexually
28 harassed and abused while incarcerated;

- 1 b. Sexual abuse of prisoners in BOP custody by employees is both a federal
2 crime and subject to BOP administrative sanctions;
- 3 c. BOP ‘staff sexual relations with inmates is always illegal’ as there is no
4 ‘consent’ defense to violation of 18 U.S.C. section 2243(b);
- 5 d. The ‘inherently unequal’ relationship between BOP employees and prisoners
6 precludes prisoners from having ‘the same ability as staff members to consent
7 to a sexual relationship;
- 8 e. The Senate Report concluded that over the past ten years (2012 to 2022) there
9 were 5,415 cases of reported inmate sexual abuse (male and female) by BOP
10 employees. Of those cases, 586 were “substantiated” (meaning determined to
11 have likely occurred by investigation). Moreover, there were at least **134**
12 **cases** for which a **BOP employee was convicted of sexually abusing a**
13 **female prisoner** or where BOP Office of Inspector General **substantiated**
14 **allegations** that a **female prisoner** was sexually abused by a BOP employee.
- 15 f. That FCI DUBLIN failed to detect the culture of BOP employees sexually
16 abusing female detainees at those facilities before, during, and after abuse
17 occurred. The senate subcommittee also found that BOP does not
18 systematically analyze complaint data to detect potentially problematic
19 employees or institutions. Finally, the BOP has accrued a backlog of
20 approximately 8,000 cases and does not report case closure rates in a way that
21 would indicate its progress in clearing the backlog.
- 22 g. When the Subcommittee asked the BOP Regional Director for the Western
23 Region, Melissa Rios, the BOP official responsible for oversight of FCI
24 DUBLIN among other facilities, how the regional office monitored potential
25 sex abuse in its facilities, she explained that she relies on PREA policies to
26 mitigate the risk of sexual assault, and PREA audits to assess compliance with
27 the PREA policies.
28

- h. PREA audits noted findings by BOP OIA Chief Reese of “cultural issues” concerning sexual misconduct by employees. Despite these findings, the PREA audits came back clean for FCI DUBLIN per the BOP, i.e. that all PREA standards before, during, and after the multiple, documented instances of sexual abuse at FCI DUBLIN. The subcommittee has “concerns” about PREA audits at FCI DUBLIN. Specifically, the Senate Report notes that the PREA audit of FCI DUBLIN from 2017 identifies known convicted sexual abuser Associate Warden Ray J. Garcia (discussed hereinabove in detail) as FCI DUBLIN’s PREA compliance officer. In this position Garcia was responsible for ensuring that the facility was compliant with the PREA standards, training, policies, and coordinating the PREA audit.
- i. The Senate Report notes several deficiencies with regard to the BOP’s analysis of PREA complaint data, i.e. complaints of sexual assaults of inmates.
- j. The Senate Report notes that the BOP Office of Internal Affairs Reporting is confusing, omits relevant information and obscures BOP’s Internal Affairs case backlog of *approximately 8,000 cases*, which has led to a failure in holding wrongdoers accountable.
- k. BOP failed to take agency-wide action to address sexual abuse of female inmates by male BOP employees. While BOP’s and DOJ’s recent focus on sexual abuse prevention and deterrence represents progress, it comes years after significant incidents of abuse came to light.

45. The Senate Report found that there were at least four BOP facilities between 2012 and 2022 with *recurring* sexual abuse of female prisoners by male BOP employees, including FCI DUBLIN.

46. Significantly, with respect to FCI DUBLIN, the Senate Report noted that within eighteen months prior to the date of the Senate Report there were *five* indictments of BOP employees for sexual abuse of at least eight female detainees at FCI DUBLIN.

1 47. Shockingly, the Senate Report noted that as of May 2022, the Office of the
 2 Inspector General and/or the BOP were investigating *at least 17 additional current or former*
 3 *employees* at FCI DUBLIN for sexual misconduct. At least 15 of these 17 additional individuals
 4 are not identified in this Complaint.

5 48. The Senate Report details that sexual abuse at FCI DUBLIN has been an ongoing
 6 problem since the 1990's, as follows, in relevant part:

- 7 a. **In 1996**, three women were brought to a male housing unit at an adjacent
 8 facility where BOP officers opened their cell doors **allowing male inmates to**
 9 **rape them**. In 1998, the BOP promised 'to adopt and implement certain
 10 policies and procedures designed to reduce the risk to female prisoners of
 11 sexual assaults.
- 12 b. In the **late 1990's and early 2000's**, four BOP employees at FCI DUBLIN
 13 were convicted or pleaded guilty to sexual abuse of female inmates at that
 14 facility.
- 15 c. **In the early 2010's**, according to media reports, approximately 'a dozen
 16 Dublin employees were removed for sexually abusing inmates,' including one
 17 who videotaped himself having sex with inmates and stored those tapes in a
 18 prison locker. None were arrested.

19 **THE PARTIES**

20 **A. Plaintiff**

21 49. Plaintiff S.F. is an adult female who was a victim of sexual assault and abuse that
 22 occurred while she was an inmate at FCI DUBLIN.

23 50. Plaintiff is currently a resident of the state of California.

24 51. As a victim of sexual assault as defined by section 115.6 of the Prison Rape
 25 Elimination Act ("PREA"), the name S.F. is not Plaintiff's actual name. Rather, plaintiff is using
 26 her initials to protect her privacy. Plaintiff is entitled to protect her identity in this public court
 27 filing by not disclosing her full name because she was sexually assaulted. *Sealed Plaintiff v. Sealed*
 28 *Defendant*, (2008) 537 F.3d 185, 187, 189-190. This litigation involves matters that are "highly

1 sensitive of a personal nature,” and based on the nature of the allegations alleged, revealing
2 plaintiff’s true name would pose a risk of retaliatory physical or mental harm to plaintiff.

3 **B. Defendants**

4 52. Defendant UNITED STATES OF AMERICA is a sovereign entity that has waived
5 its immunity for certain claims, including the claims set forth herein, and is liable for the acts of
6 its employees and servants.

7 53. Defendant UNITED STATES OF AMERICA is a governmental entity which is
8 comprised of departments and agencies including the FEDERAL BUREAU OF PRISONS
9 (“BOP”). These governmental entities are one in the same and will be hereinafter referred to
10 collectively as the “UNITED STATES.” Defendant UNITED STATES owns, operates, manages,
11 and oversees numerous prisons, including FCI DUBLIN. At all times relevant herein, Plaintiff was
12 committed and confined to FCI DUBLIN, a female-only prison owned and operated by the
13 UNITED STATES and located at or near 5701 8th St., Dublin, CA 94568.

14 54. Plaintiff is informed and believes, and on this basis alleges, that at all times
15 relevant herein, Defendant UNITED STATES, acting through its, secretary, supervisory
16 employees, employees, agents and staff, including the BOP, hired CO RAMOS and DOES 1
17 through 10 to serve as “correctional officers” and “warden” within the meaning and powers of 28
18 U.S.C. §2680(h) and 18 U.S.C. §3050. CO RAMOS and DOES 1 through 10, and each of them,
19 were employees of Defendant UNITED STATES, at all relevant times, acting within the course
20 and scope of their employment. As such, CO RAMOS and DOES 1 through 10 were responsible
21 for the custody, supervision, care, control, direction, safety, and wellbeing of prisoners at FCI
22 DUBLIN.

23 55. At all times relevant herein, CO RAMOS, DOE 1, and DOE 2 were residents of
24 the State of California.

25 56. At all times relevant herein, Defendant WARDEN GARCIA was an assistant
26 warden and warden at FCI DUBLIN employed and/or acting as the authorized agent of
27 Defendants UNITED STATES, DOJ, BOP and DOES 1 through 10.
28

1 57. At all times relevant herein, Defendants DOE 1 and DOE 2 were correctional
2 officers at FCI DUBLIN employed and/or acting as the authorized agent of Defendants UNITED
3 STATES, DOJ, BOP and DOES 3 through 10.

4 58. At all times relevant herein, CO RAMOS was a correctional officer at FCI
5 DUBLIN employed and/or acting as the authorized agent of Defendants UNITED STATES,
6 DOJ, BOP and DOES 3 through 10.

7 59. CO RAMOS, DOE 1, and DOE 2 were acting under the supervision, training, and
8 management of Defendant UNITED STATES, and DOES 1 through 10 at all relevant times.

9 60. The true names, identities, or capacities, whether individual, associate, successor-
10 in-interest to, corporate, or otherwise, of Defendants DOES 1 through 10, are unknown to
11 Plaintiff. Plaintiff therefore sues said Defendants by such fictitious names. When the true names,
12 identities, or capacities of such fictitiously designated Defendants are ascertained, Plaintiff will
13 ask leave of this Court to amend this complaint to assert their true names, identities, and
14 capacities, together with the proper charging allegations.

15 61. Each of the Defendants designated herein as a DOE is responsible, in some
16 manner, for the events and happenings herein referred to, thereby legally causing the injuries and
17 damages to Plaintiff as hereinafter alleged.

18 62. Plaintiff is informed and believes and based thereon alleges that, at all times
19 mentioned herein, each Defendant was the agent, representative, or employee of each other
20 Defendant. In doing the things hereinafter alleged, each Defendant was acting within the course
21 and scope of said alternative personality, capacity, identity, agency, representation, or
22 employment and were within the scope of their authority, whether actual or apparent. Plaintiff is
23 informed and believes and based thereon alleges that, at all times mentioned herein, Defendants
24 were the trustees, partners, servants, joint venturers, shareholders, contractors, or employees of
25 each other Defendant and the acts and omissions herein alleged were done by them, acting
26 individually through such capacity, within the scope of their authority, with the permission and
27 consent of each other Defendant, and whose conduct was thereafter ratified by each other
28 Defendant. Accordingly, each of them is jointly and severally liable to Plaintiff.

JURISDICTION AND VENUE

63. Plaintiff's claims arise under the United States Constitution, California statutory law, California common law, and the Federal Tort Claims Act ("FTCA"). The court has federal question jurisdiction over plaintiff's Constitutional claims and FTCA claims (which have been administratively exhausted) pursuant to 28 U.S.C. section 1331. The court has supplemental jurisdiction over plaintiff's California statutory and common law claims pursuant to 28 U.S.C. section 1367 because these state law claims arise from a common nucleus of operative fact with Plaintiff's federal question claims.

64. The court also has personal jurisdiction over Defendants. The court has general jurisdiction over Defendants because, on information and belief, each Defendant is a citizen of, and domiciled in, California. The court has specific jurisdiction over Defendants because they committed the actions and omissions forming the basis for each claim against them in California.

65. Venue is proper in the United States District Court, Northern District of California pursuant to 28 U.S.C. section 1391(b)(2) and 28 U.S.C. section 1402(b). All incidents giving rise to this litigation occurred in the Northern District, at FCI DUBLIN, located at 5701 8th Street, Dublin, CA 94568.

FIRST CLAIM FOR RELIEF

VIOLATION OF THE EIGHTH AMENDMENT

CRUEL AND UNUSUAL PUNISHMENT

AKA BIVENS

(Against Defendants THE ESTATE OF NICHOLAS THEODORE RAMOS and DOES 1 through 10)

66. Plaintiff re-alleges and incorporates by reference herein each and every allegation contained above and below as though fully set forth and brought in this cause of action.

67. Plaintiff had the right to be free from infliction of cruel and unusual punishment under the Eighth Amendment of the Constitution of the United States.

1 68. Pursuant to the Eighth Amendment of the United States Constitution, Plaintiff has
2 a constitutionally protected right to be free of cruel and unusual punishment. Sexual abuse of a
3 prisoner is a violation of the Eighth Amendment of the Constitution.

4 69. As recognized by federal law, there is no scenario in which an inmate can give
5 consent to sexual contact, harassment and abuse by a correctional officer. Plaintiff S.F. did not
6 consent to any of the sexual contact and sexual assaults initiated by CO RAMOS, DOE 1, and
7 DOE 2, all of which was unwelcome.

8 70. CO RAMOS, DOE 1, and DOE 2 knew their conduct was prohibited as they
9 received or performed PREA training and other training stating that no employee of the BOP
10 could engage in any type of sexual conduct with an inmate because it was illegal. However, they
11 knew that FCI DUBLIN's culture, starting with WARDEN GARCIA all the way down was to
12 turn a blind eye towards sexual harassment and sexual assault of female inmates. CO RAMOS,
13 DOE 1, and DOE 2 knew that the PREA training and other training they were provided or
14 performed would not be enforced. They also knew that there would be no consequences for
15 sexual harassment or sexual assault of female inmates as the warden was engaging in such
16 behavior.

17 71. Plaintiff S.F. was informed and believes that CO RAMOS, DOE 1, and DOE 2
18 was advised, as part of their training, that they could not maintain inappropriate relationships
19 with prisoners, which included becoming emotionally, sexually, romantically, or financially
20 involved with prisoners or former prisoners.

21 72. At all relevant times, CO RAMOS and DOES 1 through 10 were acting under
22 color of federal law and color of authority, using their position of power as a Correctional
23 Officer with Defendant UNITED STATES to intimidate, coerce, threaten, harass and sexually
24 assault Plaintiff.

25 73. Defendants' repeated sexual assaults of Plaintiff, and other uses of force,
26 committed while acting as a Warden or Correctional Officers with Defendant UNITED
27 STATES, deprived Plaintiff of her Constitutional right to be secure in her person and free of
28

1 interference with her bodily integrity as guaranteed by the Eighth Amendment of the United
2 States Constitution.

3 74. It is a broadly recognized and long-standing principle that "[t]he very essence of
4 civil liberty certainly consists in the right of every individual to claim the protection of the laws,
5 whenever he receives an injury." *Marbury v. Madison* (1803) 1 Cranch 137, 163. Plaintiff may
6 recover money damages for injuries suffered as a result of the violation of the Eighth
7 Amendment. *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics* (1999) 403
8 U.S. 388, 397. "A sexual assault on an inmate by a guard - regardless of the gender of the guard
9 or of the prisoner - is deeply "offensive to human dignity." "Being violently assaulted in prison
10 is simply not 'part of the penalty that criminal offenders pay for their offenses against society."
11 *Schwenk v. Hartford* (2000) 204 F.3d 1187, 1197.

12 75. CO RAMOS and DOES 1 through 10 detained Plaintiff without reasonable
13 suspicion by using the color of law and their position of power as a law enforcement officer or
14 warden.

15 76. CO RAMOS and DOES 1 through 10, while at FCI DUBLIN harassed,
16 intimidated, and sexually assaulted Plaintiff under color of law while wearing their official BOP
17 uniforms, using the authority vested in them by the BOP and the UNITED STATES for the
18 purpose of intentionally sexually assaulting plaintiff. As a result, CO RAMOS and DOES 1
19 through 10 violated Plaintiff's right to be free from cruel and unusual punishment guaranteed to
20 all persons in the United States under the Eighth Amendment of the United States Constitution.

21 77. The conduct of CO RAMOS and DOES 1 through 10 was willful, wanton,
22 malicious, and done with reckless disregard for the rights and safety of Plaintiff, and therefore
23 warrants the imposition of exemplary and punitive damages against CO RAMOS and DOES 1
24 through 10.

25 78. Plaintiff lacks a statutory cause of action that provides a meaningful remedy.

26 79. As a direct and legal result of the aforementioned acts and omissions of CO
27 RAMOS and DOES 1 through 10, Plaintiff has suffered great physical pain, mental pain and
28

1 suffering, emotional distress, and past and future costs of medical care and treatment, and other
2 economic and non-economic damages in an amount not yet ascertained.

3 80. The actions, conduct and omissions of CO RAMOS, DOE 1, and DOE 2 violated
4 the rights of Plaintiff S.F. under the Eighth Amendment to the United States Constitution.

5 **SECOND CLAIM FOR RELIEF**

6 **GENDER VIOLENCE**

7 **VIOLATION OF CIVIL CODE SECTION 52.4**

8 **(California Civil Code section 52.4)**

9 **(Against Defendant THE ESTATE OF THE ESTATE OF NICHOLAS THEODORE**
10 **RAMOS and DOES 1 through 10)**

11 81. Plaintiff re-alleges and incorporates by reference herein each and every allegation
12 contained above and below as though fully set forth and brought in this cause of action.

13 82. Plaintiff brings this claim for gender violence pursuant to California Civil Code
14 section 52.4 against CO RAMOS, DOE 1, and DOE 2 in their individual capacity.

15 83. Pursuant to California statute, any person subjected to gender violence may bring
16 a civil action for damages against the responsible party. Gender violence is a form of sex
17 discrimination that includes a physical intrusion or invasion of a sexual nature under coercive
18 conditions.

19 84. CO RAMOS, DOE 1, and DOE 2 discriminated against Plaintiff based on her
20 gender as a female when they repeatedly sexually abused her, by physically subjecting her to
21 sexual acts, under the coercive conditions that were present between them.

22 85. CO RAMOS, DOE 1, and DOE 2's actions of sexual assault and sexual
23 harassment could not have been discretionary as they knew such conduct was prohibited by
24 PREA training, BOP policies, the general law in the United States and California prohibits
25 sexual assault, and common sense.

26 86. CO RAMOS, DOE 1, and DOE 2 intentionally sexually assaulted plaintiff and
27 other inmates on numerous occasions. Thus, CO RAMOS, DOE 1, and DOE 2 acted with
28

malice and oppression and their conduct constitutes a reckless disregard of plaintiff's rights, entitling her to punitive damages.

87. Plaintiff seeks compensatory damages, punitive damages, reasonable attorneys' fees, and costs against CO RAMOS, DOE 1, and DOE 2.

THIRD CLAIM FOR RELIEF

SEXUAL ASSAULT AND BATTERY

VIOLATION OF CALIFORNIA CIVIL CODE SECTION 1708.5

(Against Defendant THE ESTATE OF NICHOLAS THEODORE RAMOS and DOES 1 through 10)

88. Plaintiff repeats and incorporates by reference every allegation contained in the preceding paragraphs as if fully set forth herein.

89. Plaintiff brings this claim for sexual assault under California Civil Code section 1708.5 against CO RAMOS, DOE 1, and DOE 2 in their individual capacity.

90. CO RAMOS, DOE 1, and DOE 2 acted with the intent to cause a harmful and offensive contact with an intimate part of plaintiff, and a sexually offensive contact with plaintiff directly and indirectly resulted on numerous occasions by engaging in the following acts against plaintiff:

- (a) On numerous occasions, CO RAMOS touched, fondled, and groped Plaintiff's buttocks then pulled her buttocks against his erect penis. CO RAMOS also watched Plaintiff bathing in the showers.
- (b) On numerous occasions, DOE 1 watched Plaintiff bathing in the showers.
- (c) On numerous occasions, DOE 2 touched, fondled, and groped Plaintiff's breasts, buttocks, and vagina. DOE 2 pulled Plaintiff's buttocks against his erect penis.

91. CO RAMOS, DOE 1, and DOE 2 also acted with the intent to cause a harmful and offensive contact with Plaintiff by use of their own intimate part on plaintiff's body, and a sexually offensive contact with plaintiff directly and indirectly occurred.

1 92. CO RAMOS, DOE 1, and DOE 2 also acted to cause an imminent apprehension
2 of sexual assault and a sexually offensive contact with Plaintiff directly and indirectly resulted.

3 93. A person who commits a sexual battery upon another is liable to that person for
4 damages, including, but not limited to, general damages, special damages, and punitive damages.

5 94. The offensive contact by CO RAMOS, DOE 1, and DOE 2 would offend a
6 reasonable sense of personal dignity.

7 95. CO RAMOS, DOE 1, and DOE 2's actions also violated PREA regulations and
8 BOP policy prohibiting sexual assault and abuse. Thus, CO RAMOS, DOE 1, and DOE 2 could
9 not have been making a policy judgment in their role as correctional officers.

10 96. As a direct and legal result of this conduct, Plaintiff suffered severe and
11 permanent injuries including, but not limited to, physical and mental pain and suffering, severe
12 emotional distress, physical injuries, past and future costs of medical care and treatment, and
13 other damages, in an amount not yet ascertained, but which exceed the minimum jurisdictional
14 limits of this Court.

15 97. In committing the acts described herein, the conduct of CO RAMOS and DOES
16 1-10 was despicable, done with malice, oppression and fraud, justifying an award of punitive
17 damages against him.

18 **FOURTH CLAIM FOR RELIEF**

19 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

20 **(Against Defendant THE ESTATE OF NICHOLAS THEODORE RAMOS and DOES 1**
21 **through 10)**

22 98. Plaintiff repeats and incorporates by reference every allegation contained in the
23 preceding paragraphs as if fully set forth herein.

24 99. The conduct of CO RAMOS and Does 1 through 10 was outrageous and
25 despicable and was calculated to cause great harm to Plaintiff, who was an inmate at FCI
26 DUBLIN while CO RAMOS, DOE 1, and DOE 2 was supervising and overseeing plaintiff while
27 she was in custody. CO RAMOS, DOE 1, and DOE 2 had the ultimate power and authority over
28 plaintiff while acting as a correctional officer overseeing plaintiff, an inmate at FCI DUBLIN.

1 CO RAMOS, DOE 1, and DOE 2 used their position of authority to sexually assault plaintiff
2 knowing that plaintiff had no ability to refuse their sexual assaults and abuse. CO RAMOS,
3 DOE 1, and DOE 2 could take actions against Plaintiff to ensure that her sentence was extended
4 or she was disciplined. CO RAMOS, DOE 1, and DOE 2 abused their power and authority for
5 the purpose of sexually assaulting plaintiff. This conduct cannot be tolerated by the citizens of
6 the United States. Inmates at federal correctional facilities cannot be subject to sexual assaults
7 and abuse as part of their sentence.

8 100. None of the actions by CO RAMOS, DOE 1, and DOE 2 set forth herein were
9 within their discretion in their jobs as a correctional officer or warden.

10 101. Plaintiff has suffered extreme and severe emotional distress as a direct result of
11 CO RAMOS, DOE 1, and DOE 2's sexual assaults and sexual abuse of Plaintiff while she was
12 an inmate at FCI DUBLIN.

13 102. As a direct and legal result of this conduct, Plaintiff suffered severe and
14 permanent injuries including, but not limited to, physical and mental pain and suffering, severe
15 emotional distress, physical injuries, past and future costs of medical care and treatment, and
16 other damages, in an amount not yet ascertained, but which exceed the minimum jurisdictional
17 limits of this Court.

18 103. In committing the acts described herein, the conduct of CO RAMOS and DOES
19 1-10 was despicable, and done with malice, oppression and fraud, justifying an award of punitive
20 damages against CO RAMOS and DOES 1 through 10.

21 **COMPLIANCE WITH FEDERAL TORT CLAIMS ACT**

22 104. Pursuant to the Federal Tort Claims Act a written claim was issued to the BOP on
23 or about November 23, 2022.

24 105. 28 U.S.C. §2675(a) provides that failure of a federal agency to make a final
25 disposition on a claim may be deemed a final denial for purposes of filing a complaint.

26 106. The requisite time for the federal agencies to respond to the demand pursuant to
27 the Federal Tort Claims Act has expired, and Plaintiff is entitled to bring her claim in this Court
28 within six months of the expiration for the time to respond.

1 107. A true, correct, and redacted copy of Plaintiff's FTCA claim is attached hereto as
2 Exhibit 1.

3 108. A true, correct, and redacted copy of the BOP's acknowledgment is attached
4 hereto as Exhibit 2.

5 109. The BOP has neither accepted nor rejected plaintiff's administrative claim and six
6 months has lapsed since plaintiff has submitted her administrative claim. Pursuant to 28 U.S.C.
7 section 2675(a), plaintiff elects to consider this failure to act as a final denial of her claim.

8 **SOVEREIGN IMMUNITY WAIVER**

9 110. Under the FTCA, Defendant UNITED STATES has waived its sovereign
10 immunity "... for injury or loss of property or personal injury or death caused by the negligent or
11 wrongful act or omission of any employee of the agency while acting within the scope of his
12 office or employment, under circumstances where the United States, if a private person, would
13 be liable to the Plaintiff in accordance with the law of the place where the act or omission
14 occurred..." 28 U.S.C. §2672.

15 111. "The 'law enforcement proviso' to the intentional tort exception 'extends the
16 waiver of sovereign immunity to claims for six intentional torts ... that are based on the 'acts or
17 omissions of investigative or law enforcement officers.'" In short, if the 'law enforcement
18 proviso' applies, sovereign immunity is waived." *Dickson v. United States* (5th Cir. 2021) 11
19 F.4th 308, 313–314.

20 112. Plaintiff was sexually assaulted by CO RAMOS and DOES 1 through 10, acting
21 under color of authority as "law enforcement officers," who were supervising, overseeing,
22 monitoring (e.g., video surveillance), controlling, directing, restraining, imprisoning, and
23 ordering Plaintiff at FCI DUBLIN within the course and scope of their employment with
24 Defendant UNITED STATES and BOP.

25 113. Plaintiff's injuries are a direct consequence of Defendant UNITED STATES
26 negligence in (a) "failing to enforce zero tolerance policy" [28 CFR §115.11]; (b) "failing to
27 supervise and monitor (e.g., video surveillance) one-on-one inmate/officer contact" [28 CFR
28 §115.13]; (c) "permitting improper cross-gender pat downs" [28 CFR §115.15]; (d) "hiring,

1 promoting and retaining officers who “may” have had improper sexual contact” [28 CFR
 2 §115.17]; (e) “punishing sex victims with involuntary segregated housing, loss of privileges and
 3 work permits” [28 CFR §115.43]; (f) “failing to report suspicion of sexual abuse” [28 CFR
 4 §115.61]; (g) “failing to protect inmates from retaliation after reporting abuse” [28 CFR
 5 §115.67]; and (h) “failing to discipline staff for sexual misconduct” [28 CFR §115.76].

6 114. Plaintiff’s injuries are also a consequence of intentional torts (e.g., assault,
 7 battery, gender violence, sexual harassment, intentional infliction of emotional distress)
 8 perpetrated by CO RAMOS and DOES 1 through 10. Although specific intentional torts are
 9 excluded from the sovereign immunity waiver provisions of the FTCA, the “law enforcement
 10 proviso” provides that: “with regard to acts or omissions of investigative or law enforcement
 11 officers of the United States Government, the provisions of this chapter and section 1346(b) of
 12 this title shall apply to any claim arising. . . . out of assault, battery, false imprisonment, false
 13 arrest, abuse of process, or malicious prosecution.” 28 U.S.C. 2680(h).

14 115. Pursuant to 28 U.S.C. §2674, “The United States shall be liable, respecting the
 15 provisions of this title relating to tort claims, in the same manner and to the same extent as a
 16 private individual under like circumstances...” Moreover, “...the Federal Tort Claims Act
 17 (FTCA or Act), 28 U.S.C. §§1346(b), 2671-2680... waives the Government's sovereign
 18 immunity from tort suits, including those based on certain intentional torts committed by federal
 19 law enforcement officers, §2680(h).” *Millbrook v. U.S.* (2013) 133 S. Ct. 1441, 1443.

20 116. “Government officials do not have relevant discretion when “a ‘federal statute,
 21 regulation, or policy specifically prescribes a course of action for an employee to follow,’
 22 because ‘the employee has no rightful option but to adhere to the directive.’ ” *United States v.*
 23 *Gaubert*, 499 U.S. 315, 322, 111 S.Ct. 1267. . . (1991) (*quoting Berkovitz ex rel. Berkovitz v.*
 24 *United States*, 486 U.S. 531, 536, 108 S.Ct. 1954. . . (1988)). ‘In other words, the discretionary
 25 function exception does not apply if the challenged actions in fact violated a federal statute,
 26 regulation, or policy.’ ” [Citations omitted.] *Campos v. United States* (5th Cir. 2018) 888 F.3d
 27 724, 731.

28 117. “The Senate Committee report states that the [law enforcement] proviso was

1 added to the FTCA in response to ‘abusive, illegal, and unconstitutional ‘no-knock’ raids’
 2 engaged in by federal narcotics agents in the Collinsville raids and in Bivens. 12 S.Rep. 93–588,
 3 93d Cong., 2d Sess., reprinted in 1974 U.S. Code Cong. & Ad. News 2789, 2790. After
 4 observing that there was ‘no effective legal remedy against the Federal Government’ for the
 5 intentional torts of its agents, the Committee went on to state that the law enforcement proviso
 6 should be viewed as a counterpart to the Bivens case and its progeny, in that it waives the
 7 defense of sovereign immunity so as to make the Government independently liable in damages
 8 for the same type of conduct that is alleged to have occurred in Bivens. *Id.* at 2791 (emphasis
 9 added). The report continues that the proviso would submit the Government to liability whenever
 10 its agents act under color of law so as to injure the public through searches and seizures that are
 11 conducted without warrants or with warrants issued without probable cause. However, [the
 12 proviso] should not be viewed as limited to constitutional tort situations but would apply in any
 13 case in which a Federal law enforcement agent committed the tort while acting within the scope
 14 of his employment or under color of Federal law. *Id.* (emphasis added). The language of the
 15 Senate Report—which reflects an awareness of the outrageous conduct by federal law
 16 enforcement officers and the indignities to which law abiding citizens had been subjected—is
 17 categorical and unqualified. ***The government is to be liable whenever its agents commit***
 18 ***constitutional torts and in any case in which a Federal agent commits acts which under***
 19 ***accepted tort principles constitute one of the intentional torts enumerated in the proviso.***
 20 *Sutton v. U.S.* (5th Cir. 1987) 819 F.2d 1289, 1295–1296. [Emphasis added.]

21 118. At all relevant times, CO RAMOS and DOES 1 through 10 were acting within the
 22 course and scope of their employment with Defendant UNITED STATES as “law enforcement
 23 officers” within the meaning of 28 U.S.C. 2680(h). At all relevant times, each individual
 24 defendant was acting under color of authority as a “law enforcement officer,” and was
 25 supervising, overseeing, monitoring, controlling, directing, restraining, imprisoning, and
 26 ordering Plaintiff at FCI DUBLIN within the course and scope of their employment with
 27 Defendant UNITED STATES. During the sexual assaults alleged herein by Plaintiff as
 28 committed by CO RAMOS and DOES 1 through 10, CO RAMOS and each DOE defendant, at

1 all relevant times, was using their authority as a “law enforcement officer” to force, physically
2 force, direct, intimidate, order, and coerce Plaintiff to submit to sexual assaults and to refrain
3 from revealing or disclosing the sexual assaults and abuse perpetrated on her by “law
4 enforcement officers” for fear of reprisal, longer sentences, inability to leave the facility, fear of
5 further physical and sexual assaults, fear of being charged with additional crimes, fear of living
6 in a perpetual state of violence and assaults, fear of being committed to the prison system for an
7 increased period of time, fear of not being believed as an inmate in a Federal prison, a pattern
8 and practice of “law enforcement officers” using their status to silence victims of sexual assault,
9 a pattern and practice of supervisory officers “turning a blind eye” to the sexual assaults and
10 abuse. These “law enforcement officers” used and abused their authority granted to them as “law
11 enforcement officers” within the course and scope of their employment to sexually assault
12 Plaintiff and keep her silent. As a result of the individual defendants’ use and abuse of their
13 positions of authority as a “law enforcement officer” within the course and scope of their
14 employment, Defendant UNITED STATES is vicariously liable for the sexual assaults of
15 Plaintiff.

16 119. At all times mentioned herein, CO RAMOS and DOES 1 through 10, and each of
17 them, were acting under color of the laws, statutes, ordinances, regulations, customs, and usages
18 of the UNITED STATES, pursuant to their official authority and their policies, procedures,
19 practices, and/or customs established by directives and/or other acts of Defendant UNITED
20 STATES, its agencies and departments.

21 120. 28 U.S.C. section 2680(h) specifically allows claims against “law enforcement
22 officers,” including correctional officers, to proceed against the United States for **assault** and
23 **battery** committed by a law enforcement officer acting within the course and scope of their
24 employment with the United States.

25 121. “The United States shall be liable, respecting the provisions of this title relating to
26 tort claims, in the same manner and to the same extent as a private individual under like
27 circumstances.” 28 U.S.C.A. § 2674.

28 122. In the present case, CO RAMOS and DOES 1 through 10 were, at all relevant

times, acting within the course and scope of their authority as law enforcement officers, using the color of their authority to sexually assault and batter plaintiff. Pursuant to the Federal Tort Claims Act and 28 U.S.C. section 2680(h), sexual assault and battery committed by a law enforcement officer while acting in the course and scope of their employment, while using the color of their authority, is not a discretionary function that would be subject to qualified immunity.

FIFTH CLAIM FOR RELIEF

**SEXUAL ASSAULT AND BATTERY BY LAW ENFORCEMENT OFFICER
ACTING WITHIN THE COURSE AND SCOPE OF THEIR EMPLOYMENT**

WITH THE UNITED STATES

(CALIFORNIA CIVIL CODE § 1708.5

28 U.S.C. section 2680(h)

FEDERAL TORT CLAIMS ACT)

(Against Defendant UNITED STATES)

123. Plaintiff re-alleges and incorporates by reference herein each and every allegation contained above and below as though fully set forth and brought in this cause of action.

124. Pursuant 28 U.S.C. §1346(b), Defendant UNITED STATES is liable “for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the Plaintiff in accordance with the law of the place where the act or omission occurred.”

125. The United States stands in the shoes of its employees whose “negligent or wrongful act[s]” in the scope and course of their federal employment cause an injury. 28 U.S.C. § 2679(b)(1).

126. CO RAMOS and DOES 1 through 10, in committing the acts herein alleged, intended to subject Plaintiff to sexual abuse, assault, and molestation while Plaintiff was confined as an inmate at FCI DUBLIN while CO RAMOS and DOES 1 through 10 acted in the

1 course and scope of their employment with Defendant UNITED STATES as correctional
2 officers.

3 127. At all relevant times, CO RAMOS and DOES 1 through 10, were wearing their
4 official uniforms issued by the BOP, using their color of authority as BOP prison guards at FCI
5 DUBLIN to sexually assault and batter plaintiff, acting within the course and scope of their
6 employment.

7 128. CO RAMOS, DOE 1, and DOE 2 acted with the intent to cause a harmful and
8 offensive contact with an intimate part of plaintiff, and a sexually offensive contact with plaintiff
9 directly and indirectly resulted on numerous occasions by engaging in the following acts against
10 plaintiff:

- 11 (a) On numerous occasions, CO RAMOS touched, fondled, and groped
12 Plaintiff's buttocks then pulled her buttocks against his erect penis. CO
13 RAMOS also watched Plaintiff bathing in the showers.
- 14 (b) On numerous occasions, DOE 1 watched Plaintiff bathing in the showers.
- 15 (c) On numerous occasions, DOE 2 touched, fondled, and groped Plaintiff's
16 breasts, buttocks, and vagina. DOE 2 pulled Plaintiff's buttocks against
17 his erect penis.

18 129. CO RAMOS, DOE 1, and DOE 2 also acted with the intent to cause a harmful
19 and offensive contact with Plaintiff by use of their own intimate part on plaintiff's body, and a
20 sexually offensive contact with plaintiff directly and indirectly occurred.

21 130. CO RAMOS, DOE 1, and DOE 2 also acted to cause an imminent apprehension
22 of sexual assault and a sexually offensive contact with Plaintiff directly and indirectly resulted.

23 131. Plaintiff did not and cannot consent to CO RAMOS and DOES 1 through 10's
24 intended harmful and offensive contact with Plaintiff's person, or to CO RAMOS and DOES 1
25 through 10's intent to place Plaintiff in imminent apprehension of such contact because she was
26 an inmate at FCI DUBLIN at all relevant times.

27 132. A person who commits a sexual battery upon another is liable to that person for
28 damages, including, but not limited to, general damages, special damages, and punitive damages.

133. The offensive contact by CO RAMOS, DOE 1, and DOE 2 would offend a reasonable sense of personal dignity.

134. CO RAMOS, DOE 1, and DOE 2's actions also violated PREA regulations and BOP policy prohibiting sexual assault and abuse. Thus, CO RAMOS, DOE 1, and DOE 2 could not have been making a policy judgment in their role as a correctional officer.

135. CO RAMOS and DOES 1 through 10's complete control over Plaintiff, and CO RAMOS and DOES 1 through 10's use color of authority as "law enforcement officers" within the course and scope of their employment with the UNITED STATES, Plaintiff's physical confinement and detention, Plaintiff's vulnerability, and Plaintiff's mental and emotional state, Plaintiff could not and did not give consent to such acts. Defendants UNITED STATES is vicariously liable for the intentional sexual assaults committed by CO RAMOS and DOES 1 through 10 as they were acting within the course and scope of their employment as "law enforcement officers" at the time of the sexual assaults. Defendant UNITED STATES "stands in the shoes of its employees."

136. As a direct and legal result of this conduct, Plaintiff suffered severe and permanent injuries including, but not limited to, physical and mental pain and suffering, severe emotional distress, physical injuries, past and future costs of medical care and treatment, and other damages, in an amount not yet ascertained, but which exceed the minimum jurisdictional limits of this Court.

SIXTH CLAIM FOR RELIEF

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(Against Defendant UNITED STATES)

137. Plaintiff re-alleges and incorporates by reference herein each and every allegation contained above and below as though fully set forth and brought in this cause of action.

138. Defendant UNITED STATES is vicariously liable for the intentional conduct committed by CO RAMOS and DOES 1 through 10 as they were acting within the course and scope of their employment as "law enforcement officers" at the time of the sexual assaults. At all relevant times, CO RAMOS and DOES 1 through 10, were wearing their official uniforms

1 issued by the BOP, using their color of authority as BOP correctional officers at FCI DUBLIN to
2 sexually assault and batter plaintiff.

3 139. The conduct of Defendants CO RAMOS and Does 1 through 10 was outrageous
4 and despicable and was calculated to cause great harm to Plaintiff, who was an inmate at FCI
5 DUBLIN while CO RAMOS, DOE 1, and DOE 2 was supervising and overseeing plaintiff while
6 she was in custody. CO RAMOS, DOE 1, and DOE 2 had the ultimate power and authority over
7 plaintiff while acting as a correctional officer or warden overseeing plaintiff, an inmate at FCI
8 DUBLIN. CO RAMOS, DOE 1, and DOE 2 used their position of authority to sexually assault
9 plaintiff knowing that plaintiff had no ability to refuse their sexual assaults and abuse. CO
10 RAMOS, DOE 1, and DOE 2 could take actions against Plaintiff to ensure that her sentence was
11 extended, or she was disciplined. CO RAMOS, DOE 1, and DOE 2 abused their power and
12 authority for the purpose of sexually assaulting plaintiff. This conduct cannot be tolerated by the
13 citizens of the United States. Inmates at federal correctional facilities cannot be subject to sexual
14 assaults and abuse as part of their sentence.

15 140. None of the actions by CO RAMOS, DOE 1, and DOE 2 set forth herein were
16 within their discretion in their job duties as correctional officers or warden.

17 141. Plaintiff has suffered extreme and severe emotional distress as a direct result of
18 CO RAMOS, DOE 1, and DOE 2's sexual assaults and sexual abuse of Plaintiff while she was
19 an inmate at FCI DUBLIN.

20 142. As a direct and legal result of this conduct, Plaintiff suffered severe and
21 permanent injuries including, but not limited to, physical and mental pain and suffering, severe
22 emotional distress, physical injuries, past and future costs of medical care and treatment, and
23 other damages, in an amount not yet ascertained, but which exceed the minimum jurisdictional
24 limits of this Court.

25 143. CO RAMOS and DOES 1 through 10's sexual assaults, battery, molestation, and
26 harassment of Plaintiff while Plaintiff was under the control and direction of Defendants is
27 deeply offensive to human dignity. "Being violently assaulted in prison is simply not 'part of the
28

1 penalty that criminal offenders pay for their offenses against society.” *Farmer v. Brennan*
 2 (1994) 511 U.S. 825, 834.

3 144. Defendant UNITED STATES is vicariously liable for the intentional sexual
 4 assaults of the Plaintiff as CO RAMOS and DOES 1 through 10 were acting within the course
 5 and scope of their employment at all relevant times based on their positions as “law enforcement
 6 officers.”

7 145. CO RAMOS and DOES 1 through 10’s conduct described herein was intentional
 8 and malicious and done for the purpose of causing, or with substantial certainty that such
 9 conduct would cause, Plaintiff to suffer humiliation, mental anguish, and emotional and physical
 10 distress.

11 146. 26 U.S.C. § 2680(h) does not preclude suits under the FTCA for Intentional
 12 Infliction of Emotional Distress. *See Kohn v. United States*, 680 F.2d 922, 926 (2d Cir. 1982);
 13 *Sheehan v. United States* (1990) 896 F.2d 1168.

14 **SEVENTH CLAIM FOR RELIEF**

15 **VIOLATION OF MANDATORY DIRECTIVE IN A FEDERAL STATUTE**

16 **REGULATION OR POLICY**

17 **CONDONING IMPROPER CROSS-GENDER PAT DOWNS**

18 **[28 CFR §115.15]**

19 (Against Defendant UNITED STATES)

20 147. Plaintiff re-alleges and incorporates by reference herein each and every allegation
 21 contained above and below as though fully set forth and brought in this cause of action.

22 148. Defendants UNITED STATES and DOES 1 through 10 owed Plaintiff a duty to
 23 take reasonable protective measures to protect Plaintiff and other female inmates from the risk of
 24 improper cross-gender pat downs by CO RAMOS and DOES 1 through 10 by not implementing
 25 adequate policies to prohibit improper cross-gender pat downs of Plaintiff and others by CO
 26 RAMOS and DOES 1 through 10.

1 149. Pursuant to 28 CFR section 115.15, “The facility shall not conduct cross-gender
2 strip searches or cross-gender visual body cavity searches (meaning a search of the anal or
3 genital opening) except in exigent circumstances.”

4 150. Pursuant to 28 CFR section 115.15, “The facility shall implement policies and
5 procedures that enable inmates to shower, perform bodily functions, and change clothing without
6 nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in
7 exigent circumstances or when such viewing is incidental to routine cell checks. Such policies
8 and procedures shall require staff of the opposite gender to announce their presence when
9 entering an inmate housing unit.”

10 151. Pursuant to 28 CFR section 115.15, “The agency shall train security staff in how
11 to conduct cross-gender pat-down searches. . . in a professional and respectful manner, and in the
12 least intrusive manner possible, consistent with security needs.”

13 152. CO RAMOS, DOE 1, and DOE 2, assistant wardens, wardens, supervisory
14 employees and the correctional officers at FCI DUBLIN engaged in the following conduct, in
15 violation of 28 CFR section 115.15:

- 16 a. Engaging in patterns and practices and conduct such that cross-gender strip
17 searches were routine for the purpose of sexually assaulting female inmates
18 under color of authority, while acting in the course and scope of their
19 employment as law enforcement officers with the BOP/United States, without
20 exigent circumstances.
- 21 b. Intentionally ignoring and violating policies and procedures mandating that
22 female inmates be allowed to shower, perform bodily functions, and change
23 clothing without nonmedical staff of the opposite gender viewing their
24 breasts, buttocks, or genitalia, except in exigent circumstances or when such
25 viewing is incidental to routine cell checks. Rather than actually dictate that
26 such policies and procedures were followed, employees of the BOP/United
27 States acting in the course and scope of their employment intentionally
28

violated such policies and turned a blind eye to such violations contrary to the mandatory provisions of 28 CFR section 115.15.

c. Rather than train security staff in how to conduct cross-gender pat-down searches. . . in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs, the employees of the BOP/United States trained correctional officers regarding how to use cross-gender pat-downs to sexually assault female inmates under the guise of an exigent search.

153. Defendants UNITED STATES and DOES 1 through 10 breached their duty to avoid improper cross-gender pat downs to protect Plaintiff and other female prisoners in custody from the risk of sexual abuse, molestation, and harassment by CO RAMOS and DOES 1 through 10, other correctional officers, assistant wardens and wardens such that plaintiff was sexually assaulted and battered by CO RAMOS and DOES 1 through 10.

158. As a direct and proximate result of the conduct of defendants' correctional officers, including CO RAMOS and DOES 1 through 10, plaintiff was sexually assaulted and battered by CO RAMOS, DOE 1, and DOE 2 and suffered severe emotional distress, physical pain, emotional anguish, fear, anxiety, humiliation, embarrassment, other physical and emotional injuries, economic and noneconomic damages.

EIGHTH CLAIM FOR RELIEF

VIOLATION OF MANDATORY DIRECTIVE IN A FEDERAL STATUTE

REGULATION OR POLICY

FAILURE TO DISCIPLINE STAFF FOR SEXUAL ABUSE

[28 CFR §115.76]

(Against Defendant UNITED STATES)

154. Plaintiff re-alleges and incorporates by reference herein each and every allegation contained above and below as though fully set forth and brought in this cause of action.

1 155. Pursuant to 28 CFR 115.76, “[s]taff shall be subject to disciplinary or adverse
2 action up to and including removal from their position and the Federal service for substantiated
3 allegations of sexual abuse or for violating agency or facility sexual abuse policies.”

4 156. Pursuant to 28 CFR 115.76, “[r]emoval from their position and from the Federal
5 service is the **presumptive disciplinary sanction** for staff who have engaged in or attempted or
6 threatened to engage in sexual abuse.”

7 157. CO RAMOS, DOE 1, and DOE 2, assistant wardens, wardens, supervisory
8 employees and the correctional officers at FCI DUBLIN, acting in the course and scope of their
9 employment with BOP/United States engaged in the following conduct, in violation of 28 CFR
10 115.76:

- 11 a. Turning a blind eye towards sexual abuse of female inmates, conspiring with
12 each other to ignore sexual abuse of female inmates committed by others,
13 fostering a culture of sexual assaults and abuse of female inmates, engaging in
14 retaliatory conduct towards employees and inmates that report inmate sexual
15 abuse, engaging in a culture of sexual assaults and abuse, using pat-down
16 searches, cell inspections and other types of searches under the guise of pat-
17 down searches for purposes of sexual assault and abuse of female inmates,
18 creating a culture of consent to sexually abuse female inmates and taking
19 action to further the culture of sexual abuse of female inmates, including
20 sexually assaulting female inmates.
- 21 b. Creating a culture of silence with regarding to reporting sexual abuse of
22 inmates.
- 23 c. Taking no disciplinary action towards correctional officers, third party
24 vendors, assistant wardens and wardens for sexually assaulting female inmates
25 in direct violation of CFR 115.76.
- 26 d. Advising employees of the BOP/United States that there is no punishment for
27 sexually assaulting female inmates, both implicitly and explicitly.

158. As a direct result of the intentional misconduct of the employees of the BOP/United States, plaintiff was sexually assaulted by CO RAMOS and DOES 1 through 10, while acting under color of law, while wearing a uniform at FCI DUBLIN and overseeing plaintiff while in custody as an inmate at FCI DUBLIN. CO RAMOS and DOES 1 through 10 knew that they would not be subject to disciplinary action for sexually assaulting, battering and harassing plaintiff, thus CO RAMOS, DOE 1, and DOE 2 sexually assaulted plaintiff in the open at FCI DUBLIN on numerous occasions knowing that if he were observed by the assistant warden, warden, supervisory employees and correctional officers that no disciplinary action would be taken against him

159. As a direct and proximate result of the conduct of defendants' correctional officers, including CO RAMOS and DOES 1 through 10, plaintiff was sexually assaulted and battered by CO RAMOS, DOE 1, and DOE 2 and suffered severe emotional distress, physical pain, emotional anguish, fear, anxiety, humiliation, embarrassment, other physical and emotional injuries, economic and noneconomic damages.

NINTH CLAIM FOR RELIEF

VIOLATION OF MANDATORY DIRECTIVE IN A FEDERAL STATUTE

REGULATION OR POLICY

HIRING, PROMOTING AND RETAINING OFFICERS WHO HAVE ENGAGED IN IMPROPER SEXUAL CONTACT WITH INMATES

[28 CFR §115.17]

(Against Defendant UNITED STATES)

152. Plaintiff re-alleges and incorporates by reference herein each and every allegation contained above and below as though fully set forth and brought in this cause of action.

153. Pursuant to 28 CFR section 115.17, the BOP shall not hire or promote anyone who may have contact with inmates, and shall not enlist the services of any contractor who may have contact with inmates, who—

(1) Has engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution (as defined in 42 U.S.C. 1997);

(2) Has been convicted of engaging or attempting to engage in sexual activity in the community facilitated by force, overt or implied threats of force, or coercion, or if the victim did not consent or was unable to consent or refuse; or

(3) Has been civilly or administratively adjudicated to have engaged in the activity described in paragraph (a)(2) of this section.

154. CO RAMOS, DOE 1, and DOE 2, assistant wardens, wardens, supervisory employees and the correctional officers at FCI DUBLIN, acting in the course and scope of their employment with BOP/United States engaged in the following conduct, in violation of 28 CFR 115.17, including but not limited to, hiring and promoting correctional officers and third-party contractors who are known sexual abusers in a prison. Moreover, such direct violation of 28 CFR 115.17 contributed to a culture of permission to sexually abuse female inmates. Failure to enforce 28 CFR 115.17 was a direct and proximate cause of CO RAMOS and DOES 1 through 10's sexual assaults and sexual battery of plaintiff and other female inmates.

154. CO RAMOS, DOE 1, and DOE 2, assistant wardens, wardens, supervisory employees and the correctional officers at FCI DUBLIN, acting in the course and scope of their employment with BOP/United States, knew that CO RAMOS, DOE 1, and DOE 2 had sexually assaulted numerous female inmates before and during their sexual assaults of Plaintiff. However, CO RAMOS, DOE 1, and DOE 2, assistant wardens, wardens, supervisory employees and the correctional officers at FCI DUBLIN, acting in the course and scope of their employment, hired and/or promoted CO RAMOS and DOES 1 through 10 in violation of 28 CFR 115.17.

155. CO RAMOS, DOE 1, and DOE 2, assistant wardens, wardens, supervisory employees and the correctional officers at FCI DUBLIN, acting in the course and scope of their employment with BOP/United States, while acting under color of authority, breached their duties to plaintiff and other inmates to protect them from sexual predators like CO RAMOS and DOES 1 through 10.

156. As a direct and proximate result of violation of 28 CFR 115.17, CO RAMOS, DOE 1, and DOE 2, assistant wardens, wardens, supervisory employees and the correctional

officers at FCI DUBLIN, acting in the course and scope of their employment with BOP/United States, Plaintiff was sexually assaulted by defendants CO RAMOS and DOES 1 through 10. As a result of CO RAMOS and DOES 1 through 10's sexual assaults and battery of plaintiff while acting within the course and scope of their employment as a BOP/United States correctional officer, plaintiff suffered general and special damages according to proof, including severe personal physical injuries, including emotional distress.

TENTH CLAIM FOR RELIEF

VIOLATION OF MANDATORY DIRECTIVE IN A FEDERAL STATUTE

REGULATION OR POLICY

FAILING TO REPORT SEXUAL ABUSE OF INMATES

[28 CFR §115.61]

(Against Defendant UNITED STATES)

173. Plaintiff re-alleges and incorporates by reference herein each and every allegation contained above and below as though fully set forth and brought in this cause of action.

174. Pursuant to 28 CFR section 115.61 requires all federal prison staff to report immediately and according to agency policy any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred in a facility, whether or not it is part of the agency; retaliation against inmates or staff who reported such an incident; and any staff neglect or violation of responsibilities that may have contributed to an incident or retaliation.

175. Rather than requiring compliance with 28 CFR section 115.61, the supervising BOP employees, including the assistant wardens and wardens, created a culture and practice at FCI DUBLIN, at all relevant times, to encourage correctional officers, staff and other BOP employees to remain silent and not report any knowledge, suspicion, or information regarding an incident of sexual abuse or sexual harassment that occurred at FCI DUBLIN.

176. Rather than requiring compliance with 28 CFR section 115.61, the supervising BOP employees, including the assistant wardens and wardens, created a culture and practice at FCI DUBLIN, at all relevant times, to encourage correctional officers, staff and other BOP

employees to remain silent and not report retaliation against inmates or staff who reported such an incident. For example, employees that reported sexual abuse of inmates were routinely transferred to less desirable federal correctional institutions as an example to other staff to keep silent and quiet about knowledge and suspicion about incidents of sexual abuse and sexual harassment of female inmates at FCI DUBLIN.

177. As a result of the intentional violation of 28 CFR section 115.61, female inmates were sexually abused, and were continually sexually abused and sexually assaulted and battered given that staff were intimidated by supervisory employees and other correctional officers to keep silent about what they heard, saw, knew and suspected about female inmate sexual assaults and sexual battery at FCI DUBLIN at all relevant times.

178. As a direct result of the intentional violations of 28 CFR 115.61, plaintiff and other female inmates were sexually assaulted, and even after such sexual assaults were known, they went unreported and continued because of the implicit and express retaliation towards staff by the sexually abusive supervisors and correctional officers at FCI DUBLIN.

179. As a direct and proximate result of the intentional violations of 28 CFR 115.61 described herein, plaintiff was sexually assaulted by CO RAMOS and DOES 1 through 10, and such sexual assaults continued for a longer period of time and went unreported because of the culture of silence and retaliation for reporting sexual assaults of female inmates at FCI DUBLIN.

180. As a direct and proximate cause of CO RAMOS and DOES 1 through 10's sexual assaults of plaintiff, plaintiff suffered economic and non-economic damages according to proof.

ELEVENTH CLAIM FOR RELIEF

VIOLATION OF MANDATORY DIRECTIVE IN A FEDERAL STATUTE

REGULATION OR POLICY

FAILING TO PROTECT INMATES AND STAFF

FROM RETALIATION AFTER REPORTING SEXUAL ABUSE OF INMATES

[28 CFR §115.67]

(Against Defendant UNITED STATES)

178. Plaintiff re-alleges and incorporates by reference herein each and every allegation

1 contained above and below as though fully set forth and brought in this cause of action.

2 179. Pursuant to 28 CFR section 115.67, the BOP shall establish a policy to protect all
3 inmates and staff who report sexual abuse or sexual harassment or cooperate with sexual abuse
4 or sexual harassment investigations from retaliation by other inmates or staff, and shall designate
5 which staff members or departments are charged with monitoring retaliation.

6 180. Pursuant to 28 CFR section 115.67, the BOP shall employ multiple protection
7 measures, such as housing changes or transfers for inmate victims or abusers, removal of alleged
8 staff or inmate abusers from contact with victims, and emotional support services for inmates or
9 staff who fear retaliation for reporting sexual abuse or sexual harassment or for cooperating with
10 investigations.

11 181. Rather than follow such mandatory regulations at FCI DUBLIN, the assistant
12 warden, warden and supervisory employees of the BOP/United States ridiculed and retaliated
13 against inmates and staff who reported sexual assaults, sexual battery and sexual harassment of
14 inmates by correctional officers, assistant wardens and wardens. Moreover, the assistant warden,
15 warden and supervisory employees of the BOP/United States failed to transfer the abusers and
16 failed to separate the abusers from the victims of the sexual assaults and abuse.

17 182. As a direct and proximate result of the violation of 28 CFR section 115.67, CO
18 RAMOS and DOES 1 through 10 knew they would not be subject to discipline for sexually
19 assaulting female inmates and that no steps would be taken to protect inmates and staff that
20 reported sexual assaults. Thus, the result of the failure to enforce 28 CFR section 115.76 was
21 that CO RAMOS and DOES 1 through 10 knew they could sexually assault plaintiff with
22 impunity, without any repercussions against them for abusing plaintiff and others.

23 183. At all relevant times, the assistant wardens, correctional officers, staff and other
24 supervisory employees were acting within the course and scope of their employment under color
25 of authority, while in uniform, when they intentionally violated 28 CFR section 115.76 on
26 numerous occasions.

27 184. As a direct and proximate result of the violation of 28 CFR 115.67, plaintiff and
28 other female inmates were abused, and continually abused on numerous occasions.

1 185. As a result of such sexual assaults and sexual battery of plaintiff by CO RAMOS
2 and DOES 1 through 10, plaintiff suffered economic and non-economic damages, according to
3 proof.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as
6 follows:

- 7 1. For past, present, and future general damages in an amount to be determined at
8 trial.
- 9 2. For special damages, including past and future hospital, medical, professional, and
10 incidental expenses in excess of the jurisdictional minimum of this Court according
11 to proof;
- 12 3. For costs of suit;
- 13 4. For exemplary damages against THE ESTATE OF NICHOLAS RAMOS and DOES
14 1 through 10 only;
- 15 5. For such other and further relief as the Court may deem proper.

16 Date: August 28, 2023

SLATER SLATER SCHULMAN LLP

17
18 By: /s/ J. Kyle Gaines

19 James W. Lewis

20 J. Kyle Gaines

21 Attorneys for Plaintiff S.F.
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DEMAND FOR JURY TRIAL

Plaintiff S.F. hereby demands that this action be determined by trial by jury.

Date: August 28, 2023

SLATER SLATER SCHULMAN LLP

By: /s/ J. Kyle Gaines

J. KYLE GAINES

Attorneys for Plaintiff,

S.F.